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Native Administration Memoranda

No. II
NATIVE COURTS

Second Edition

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NATIVE COURTS.

(Second Edition).

1. The following instructions are issued in place of the first edition of Native Administration Memorandum No. II, the amendment of which has become necessary in consequence of the enactment of the Native Courts Ordinance (No. 5) of 1929, and desirable in the light of the experience gained in the four years since the native courts were first established on a systematic basis throughout the Territory. The first edition of Native Administration Memorandum No. II should now be withdrawn from use.

Previous edition of Native Administration Memorandum No. II withdrawn.

2. This memorandum is concerned only with the courts in areas of indirect administration which come under the 1929 Ordinance; much of it will be found of general assistance in the supervision of the small number of courts which remain under Proclamation No. 2 of 1925, but it must be understood that those courts are under the supervision of the High Court and that specific instructions, when required, must be sought from the Chief Justice.

This memorandum concerned only with Native Courts in areas of indirect administration.

3. It is essential that a proper understanding be obtained of the scope and purpose of the native courts. In the first place they are not a new system invented by us, but a continuation of the judicial functions of native authority which have existed in a more or less primitive form ever since the emergence of those units possessing a common language, a single social system, and an established customary law, units which we call tribes. Their primary function is to give effect to that well established and understood body of customary law which regulates native society and the duties and liabilities of the inhabitants of the country one to another and all to the tribe.

Scope and purpose of Native Courts to be properly understood.

4. This is not to say that native judicial institutions cannot change and develop as the people among whom they have evolved advance in prosperity and civilisation. Native customary law is a living system which is constantly going through a process of development and adjustment to new circumstances and new impulses of thought, which in time become crystallised as parts of that law. In the most primitive stage native courts were no more than gatherings of village elders or members of a clan for argument and arbitration; the decision having been pronounced the successful suitor was left to obtain satisfaction for himself as best he might, and there

Native judicial institutions always developing.

was little order or finality about the proceedings of the "courts". But as effective native administrations are developed and the people, already advancing in civilisation and material possessions, become accustomed to demand that their disputes should be regulated and their wrongs redressed with greater expedition and efficiency, the procedure of the native courts becomes more clearly defined and their judgments acquire authority, so that a decision may not only be obtained but also enforced successfully against the other party. But this is only to say that the effect upon native society of a stable central Government, able and willing to protect it from external aggression or internal dissension, is to render more effective the tribunals which it possesses and to create conditions in which those tribunals may gain in authority and dignity and may develop *pari passu* with the development in other directions of the society in which they exist.

The development of Native Courts should be along lines natural to them.

5. But this development should be a natural growth and should not be hastened unduly; above all it should not be misdirected by administrative interference or permitted to misdirect itself into channels quite foreign to native ideas. This point has been well explained by a Provincial Commissioner as follows:—

> "I found that in some courts the procedure essential to a subordinate court was being aped. For instance askaris in the shape of messengers guarded the accused, witnesses were brought in one by one, a good deal of browbeating as regards dates, times, etc., took place. It is quite alien to native ideas that their courts should be invested with all these trappings. Presumably court houses have to be, if only for the rainy season, though I always think that a court only gets interesting when it is held under a convenient tree. I may illustrate what I mean by describing a Kilimanjaro court. The Chief sits with his clerk at a desk and during the whole proceedings never says a word except to give sentence. All the old men sit round him and litigation starts by the clerk reading out a name. The plaintiff comes in the ring formed by the countryside, plants his stick in the ground and is extremely voluble for the space of anything up to half an hour. The defendant then follows suit and does likewise. If there are any witnesses they are called out of the crowd, and they add their quota to the oratory that had gone before. When that is finished such Elders as are moved by the spirit give their opinion which is either well or badly received by the audience. When everybody has talked to his heart's content, the opinion of the Elders is taken and is probably absolutely in accord, with the exception of one or two dissentients who are howled down. The result is a most equitable and wise judgment

which is pronounced by the Chief. The actual judgment is really communal and everybody takes an interest in it. The Chief is a figure head, although the acknowledged authority, and the council, limited in numbers only by popular opinion, is the really deciding factor."

Courts should be kept within the limits of tribal forms.

6. What is the practice on Kilimanjaro is not necessarily the practice elsewhere, but the extract quoted above should assist officers to appreciate the fundamental necessity of keeping the courts as far as possible within the limits of their tribal forms so that their functions may be exercised in accordance with their ancient traditions, and decisions may be reached in an atmosphere familiar to them by methods which long experience has enabled them to use with success to ascertain the truth of the matters which are thrashed out before them and the decision which will satisfy their conceptions of justice and propriety. There is, of course, much which native courts may copy with advantage from British courts: for example the hearing of cases in a dignified and orderly manner and in public, the incorruptibility of magistrates and judges, the even-handed application of the law without fear or favour to all alike, and so on, and of these things, which are as it were practical demonstrations of the advice which is constantly being given to them by Administrative Officers, they will feel the influence as time goes on to an increasing extent. These are indeed the very foundations of justice and of law, and no institutions which neglect them can endure: they are general principles of conduct and as such worthy of emulation by Native Courts, but they must be distinguished from rules of particular application which have been evolved in our law because they are suited to our circumstances and are accepted by us, but which, however excellent, are foreign to Bantu institutions and customs and incomprehensible to the people.

Administrative Officers must carefully study the judicial institutions of the tribes.

7. It is for this reason that Administrative Officers are enjoined carefully to study the judicial system of the tribes in their districts and to use every endeavour to ensure that the courts which are set up under the law are in fact true native courts. The jurisdiction of the courts must of necessity be defined, and a certain general uniformity is unavoidable, and for that reason the Native Courts Ordinance (No. 5) of 1929 has been enacted. It is reproduced as Appendix I of this memorandum and must be carefully studied and thoroughly understood by all officers.

The jurisdiction of the courts to be kept within the limits laid down in Ordinance No. 5 of 1929.

8. The law exactly defines the jurisdiction of the courts and it must be understood that their activities must be kept within those limits: there is no power vested in any officer to extend that jurisdiction beyond what the Ordinance lays down. When their decisions go beyond that they are illegal and must be set aside on revision.

Summary of jurisdiction.

9. That jurisdiction, which is set out in section 13 of the Ordinance subject to the limitations laid down in section 12, may be briefly summarised as the power to punish breaches of native law and custom and to adjudicate upon disputes in accordance with that law and custom to the extent that is laid down for each court in its warrant. In addition, the Native Authority Ordinance confers upon Native Authorities the power to make orders and rules for certain purposes, and when these have been *lawfully* made they are within the jurisdiction of the courts of the areas within which they have been made and their breach may be punished in those courts, with one exception as explained in the succeeding paragraph of this memorandum. It must, however, be understood that an order must be "lawful" before breach of it can be legally punished.

Exception to power to punish for offences under the Native Authority Ordinance.

10. That exception arises from the use which may be made of the power to issue orders under section 8 of the Native Authority Ordinance. In certain circumstances orders are made by the Native Authorities at the instance, and on behalf of, the central government or its local agents. This generally takes the form of orders for the engagement of paid labour for essential public services under section 8 (i), but may occur in relation to certain other matters. In all such cases, *i.e.*, cases in which work or service is being done or rendered at the instance, directly or indirectly, of a Government officer for the benefit of the Government or any of its officers, delinquents may not be tried by the native courts; to send them for trial there is in the circumstances regarded generally by the courts as a direction not to try, but to punish, and the accused is in consequence prejudiced in his defence. Officers are to understand that this is a precise direction which is on no account to be disregarded. It is not, however, to be held to apply to cases in which native authorities have of their own motion issued orders under the Native Authority Ordinance regulating matters which they are expressly empowered to regulate in that manner.

Exactly defined classes of courts are not now required by the law.

11. The Native Courts Ordinance does not provide, as Proclamation No. 2 of 1925 does, for two exactly defined classes of courts, but permits of such variety and gradations as circumstances and future developments may show to be necessary. It preserves the relation of superiority and subordination between the appellate and the inferior courts, which may conveniently be referred to as "A" and "B" courts respectively. In practice at the present time there exist only the two classes of courts which had been set up under pre-existing legislation, but the new Ordinance makes possible by section 33 (1) the exercise of appellate jurisdiction not only from the court of a Headman to that of his Chief, but from the Chief's Court to a council of Chiefs when it

has been established and chiefs and people understand and desire this extension.

Additional jurisdiction which may be conferred.

12. In addition to the jurisdiction set out in section 13 (a) and (b) of the Ordinance and discussed above the Governor by order under section 14 may confer additional jurisdiction upon the native courts in accordance with section 13 (d) or jurisdiction may be expressly conferred upon them in the text of an Ordinance, as contemplated in section 13 (c) but it must be understood that no such jurisdiction exists in either case until it has been expressly conferred. In this connection it is to be observed that though Native Courts have no jurisdiction under the Witchcraft Ordinance, words such as "You are a witch" are a very common form of abuse among natives, which native customary law regards as deserving of punishment as defamation or slander. In cases of this sort Native Courts are not deprived of jurisdiction because the slander takes the particular form of an imputation of witchcraft, but care must be exercised to distinguish this from accusations of the actual practice of witchcraft in which Native Courts have no jurisdiction and which they must not try. At the same time it will not infrequently happen that native law and custom, or orders or rules under the Native Authority Ordinance, cover matters for which legislation has also been enacted or applied by the British Government. Such orders or rules must not conflict with the statutory law: they are made "subject to the provisions of any law for the time being in force" (see opening words of section 8 of Native Authority Ordinance). In such cases of over-lapping (subject to what is said in this memorandum) the jurisdiction of the native courts is not taken from them because of the existence of parallel legislation or applied law, unless an express direction has been given to that effect, as for example in paragraph 10 above. For example, if *A* assaults *B* the jurisdiction of the native court is not voided because the assault amounts to simple hurt under the Penal Code. So, if a Native Authority enacts a rule under section 8 (c) of the Native Authority Ordinance prohibiting the possession or carrying of unregistered firearms, such an order, conforming as it does to the provisions of the Arms and Ammunition Ordinance, is legal, and breach of it may be punished in the Native Court; the same applies to such questions as stock movement, the destruction of trees, or any other matter specifically set out under section 8 of the Native Authority Ordinance, but if in lieu of orders in this sense rules of a more permanent and formal nature are desired, then the sanction of the Governor must be sought for their enactment under section 15 of the Native Authority Ordinance. It is, however, imperative that officers should see to it that illegalities are not committed under colour of some nebulous or imaginary native custom, and the

Governor looks to Provincial Commissioners in particular to intervene at once in any cases of this nature. In this connection it must be remembered, however, that where the Native Authority Ordinance itself and native law and custom over-lap action must always be taken under the former, and this involves the necessity of first issuing a statutory order under the law, *e.g.*, it is not an offence for a native to leave one chiefdom for another unless an express order to that effect has been made under section 8 (j) of the Native Authority Ordinance, an order which could not be made save in very exceptional circumstances (such as sleeping sickness) as it would be contrary to the policy of the Government (section 40 of Memorandum No. I).

The composition of courts not to be too precisely defined.

13. In the constitution of the courts it is important to avoid an excessive precision. It is seldom that what should be the exact personnel of a native court can be known to a British officer, and indeed there can be but few Bantu courts which are exactly constituted. Generally the court is more in the nature of a rather indefinite council; the Chief, and certain other office holders, have a seat on it in virtue of their offices, but it consists in addition of that very indeterminate body "the Elders" and it is best to leave the courts unfettered in this respect except for a stipulation that not *less* than a certain number must be present before a court may be deemed to be properly constituted. Wherever possible, however, members of the younger and more educated—or at least sophisticated—elements in the population should be encouraged to sit on the courts as the representatives of the present generation, lest confined solely to the elders the courts should lose the interest and support of those upon whom their continued existence and development must as time goes on depend more and more.

The records to be kept.

14. In one respect it is unavoidable that the regularisation of native courts under a civilised Government should result in the introduction of something previously outside their experience, and that is in the keeping of records and accounts. It is essential that all courts should be able to keep in an intelligible form the following (specimens of which have been placed in the appendix):—

(i) Case Register (N.A. Form 1).

(ii) Cash Book (N.A. Form 3).

(iii) Receipt Book (N.A. Form 4).

It is also desirable that the combined form of Summons and Warrant (N.A. Form 2) which has been printed should be used, for it is probably generally understood, but steps should be taken to ensure that it is properly used and in particular

that when issued to a native who lays a complaint, in order that he may procure the attendance of the person complained against, it is not employed as a means of bringing improper pressure to bear upon the latter. Where circumstances permit it is probably better for the summons to be served by a Court messenger, and where this is done the number of cases which remain incomplete because of the failure of the parties to appear will generally be very small.

Particulars required in the records.

15. The record in the case register of a court of first instance should contain sufficient particulars of the parties to permit of their ready identification, a brief statement of the matters in dispute or the act complained of, the amount of the fee or fine, and the judgment. The latter may be brief, but it is desirable to induce Chiefs to cause it to contain a short account of the reasons for the decision, and of the law upon which it is based, at least in cases of importance, for information of great value to the student of native law should thereby be accumulated in the course of years; but even this important consideration must give way before the paramount necessity of avoiding issuing any instructions compliance with which may be beyond the capacity of the Court, or such as may tend to create rules of procedure or law in conflict with the customs of the people and incomprehensible to their Chiefs. For example, to require the keeping of records modelled upon those of the subordinate courts amounts in fact to imparting a strong impetus towards the imitation of scarcely understood forms and procedure to an extent which may lead the courts astray in directions where they have neither experience nor understanding to guide them, and may impose upon the clerks the duty of keeping records quite beyond their capacity.

Dangers arising from the illiteracy of the members of courts.

16. There is an even stronger reason for the avoidance of over-elaborate records, and that is the generally prevailing illiteracy of Chiefs and other members of the Courts Even now it must still be rather the rule than the exception that the clerk is the only literate man among them and since they can have no idea of what he has recorded it is desirable that the record should, in general, be restricted to the plainest matters of essential facts.

The record in appeal to be more detailed.

17. Native Courts which exercise appellate jurisdiction however should, if possible, cause their judgments to be recorded in rather more detail including wherever possible some explanation of the law or custom by which they have been guided. They should always record the fact that the case is an appeal, the name of the court from whose decision the appeal has been made, and the nature of the judgment in the lower court, for the omission of these simple details, which is not uncommon, may easily lead to confusion.

Danger that records may not correctly describe what occurred.

18. Because of the illiteracy of the members of the Court there is a certain risk that the record may not correctly represent what happens, either from the carelessness or dishonesty of the clerk or because instead of compiling the record at the time the case was heard, he has endeavoured to piece it together afterwards from rough notes on odd scraps of paper. Thus judgment may be entered for *A* when in fact the property in question was awarded to *B*, or fines and fees may be recorded as less than were actually levied. In a few cases fines have been recorded in words in the judgment and a smaller sum has been entered in the cash column provided for the purpose in the register. For these and other reasons it is most important that in addition to the careful scrutiny of records which all administrative officers should undertake they should neglect no opportunity of checking their accuracy by reference to Chiefs and Elders and especially to litigants themselves. No inspection of a native court should be regarded as adequate which goes no further than the written record in the register.

Use of form of summons and warrant.

19. The form of summons and warrant (N.A. Form 2) has been designed to meet as far as possible all the normal needs of a Native Court. On the reverse there is provision for a summary of the judgment, and unless the judgment is satisfied in Court at the time of hearing, this should be completed and the form handed to the judgment creditor, who will surrender it to the judgment debtor on receiving satisfaction of his debt. When imprisonment is ordered and the prisoner is sent by the Native Court to the District Officer to undergo his sentence in the district gaol, particulars of the sentence should be entered on the back of this form which should be sent with the prisoner. On arrival at the District Office the ordinary commitment warrant should be made out, the Native Administration Form being signed and returned to the Native Court, as a receipt for the prisoner. Native Courts should be made to keep a file of such receipts, or they should be retained in the corresponding page of the case register, and inspecting officers should compare them with the registers, in order to make certain that all convicted prisoners have been sent to the district gaol and have not been retained to hoe the Chief's fields, or disposed of in any other irregular manner. It is convenient if the fact that they have been so compared is recorded in the register by the inspecting officer at the time of the inspection.

Seal of a Native Authority.

20. Native Authorities should be in possession of a seal or stamp of distinctive pattern for use on summonses or any other official document or letter they may issue, and this as a rule should be in a form intelligible to illiterate natives, which is best achieved by the adoption of a device, if possible of

local significance, which can be readily recognised by all. In units possessing a paramount Chief the seal or stamp of his court should normally be personal to himself and should be destroyed on his death or supersession, but subordinate Native Authorities and Courts should use only the titles of their office or court. It is not necessary, and may be confusing, for Native Authorities and Native Courts to have separate seals. In all cases these seals should be kept by the Chief, or President of the Court, and should not be left to be used by the clerks as they may see fit.

Native Court accounting.

21. Native Court accounting should, if possible, be kept separate from the Native Treasury, and where funds permit the court clerk should not be employed on Native Treasury business. The Native Treasury and the Native Court clerks thus become checks upon each other, which have before now been of considerable value. When this arrangement is in force, court revenue should be paid in to the Native Treasury from time to time in accordance with the directions of the Provincial Commissioner and a receipt should be issued by the Native Treasury and should be securely attached to the register or cash book by the Native Court Clerk. In the absence of special authority from the Provincial Commissioner no Native Court should be permitted to retain cash in excess of £10 at any one time. The Native Court clerk must immediately issue a receipt to the payer for any money received as fees or fines and must bring it to account *at once* in the cash column of the register. Natives must be repeatedly warned never to part with their money without obtaining a receipt, or, if a receipt is refused, to complain at once to a superior Native Authority or an Administrative Officer.

Native law does not clearly distinguish between criminal and civil.

22. As has been said the main function of a Native Court is to administer justice in accordance with native law and custom, and thus to provide a prompt, simple and inexpensive means for the redress of wrong or the punishment of offenders, which is within the reach of all in a form which they understand. It must be remembered that the distinction, as we know it, between criminal and civil law, a distinction which often depends simply on the nature of the judgment, does not really exist in native law: for this reason the attempt to keep criminal and civil case registers in separate books should not usually be made, for it is not understood by the courts, and generally results in confusing them. If in the opinion of a District Officer separate registers should be kept he must in every case obtain the concurrence of his Provincial Commissioner in writing before directing the courts to do so. At the same time European ideas of law and justice have been introduced during the last forty years and it must be within the knowledge and comprehension of the great majority of the

people that certain acts for which under native law the payment of compensation might in some cases have been considered adequate redress are regarded by the Government as deserving of particularly severe punishment; homicide for example, or brutal and serious assaults, arson, rape and so on. Indeed, it is probable that the propriety of our attitude to these and similarly serious crimes is generally recognised by natives; but whether it is recognised by them or not it must be made quite clear that an offender, who, if tried by a British court, would receive a heavy sentence of imprisonment cannot be permitted to escape with a light and inadequate sentence merely because native courts have been established under the law. All such offences must be tried by a British court and officers must see to it that the native courts do not take it upon themselves to do so, and if they do that their proceedings are quashed and the matter is dealt with in accordance with the criminal law of the Territory.

Reference of apparently serious offences to Native Courts.

23. Reports of serious crime or other offences outside the jurisdiction of the Native Courts which would normally be investigated by the Police should at once be forwarded to the Police for action and should not be held up pending the results of enquiries by Native Administrations. It will occasionally occur that offences which on the face of things appear to be of a serious nature are found on enquiry by the Police or the District Officer to be in reality not so, but such as may properly be referred to the Native Courts. Such cases may be sent by the District Officer to the native courts for trial but a record of the fact that this has been done must invariably be made at the time by the District Officer and on receipt of the case, by the Native Court, whose record should begin:

"We have received this case from the District Officer."

Native law may have to be set aside.

24. In addition to the class of cases discussed above it will occur from time to time that an administrative officer will find himself obliged to set aside native law, and thus to deprive native courts of jurisdiction of a certain kind, as being repugnant to European ideas of justice and morality.

It must be most clearly understood that injustice and illegality (not of course including in the latter mere technical errors of detail) are "repugnant" in this sense and that only one course is open to a British officer in such cases, and that is to put them right: and further, that Chiefs or Headmen who wantonly and intentionally commit acts of injustice or of deliberate illegality must themselves be brought before a superior native court, if there be one having jurisdiction, or a subordinate court, so that they may be punished. Beyond this it is not practicable to give precise directions, for the border line must of necessity be a matter of doubt, and Administrative Officers must decide for themselves in such cases as they arise; but if the foregoing paragraphs, and the general principles

underlying the policy of indirect rule, as set forth in Memorandum No. I, are carefully studied, it should generally be possible to arrive at a decision. All that can be said here is to enjoin a sense of proportion and a balanced judgment, so that trivialities are not magnified into matters of principle; and to remind all Administrative Officers that that which is different is not necessarily repugnant. When, bearing in mind what has been said above, native law has to be set aside, particular care should be taken that the Native Authorities and people understand the reasons for doing so, and this is generally best achieved by a public statement in Court or Baraza in which it should be explained that there are some things which a British Government cannot permit, since they outrage our sense of what is just or right, and that for that reason the particular law or custom in question cannot be accepted. Whenever this occurs the opportunity should be taken by discussion with Chiefs and Elders to induce them and their people to consent to the suppression of the objectionable features of the law or custom in question, a suppression which they can themselves make effective by means of sections 8 (r) or 15 of the Native Authority Ordinance, if they really desire to do so and are not merely yielding to the unwelcome importunity of the British officer; but care should be exercised that the result is not simply to drive underground what is objectionable. In some cases native laws or customs lead to acts which a civilised Government has no option but to prohibit, and enforce its prohibition with penal sanctions; such are the murder of twins, ordeal by poison and certain less important matters. Until the prohibition has come to be accepted by the leaders of the people as just and proper, complaint in all cases of this nature should be made to a Subordinate and not to a Native Court, for it is wrong to compel a native court to repress by punishment acts which the members of the court consider to be perfectly right and often even obligatory on the person they are compelled to punish.

Powers of punishment of Native Courts.

25. When jurisdiction is given to Native Courts to try offences against the Ordinances or laws of the Territory (for example, the Native Authority Ordinance) their powers of punishment extend to the punishments set out in such Ordinances or laws, provided of course that they may not impose sentences in excess of the powers expressed in their warrants. In the case of native law and custom, section 15 of the Ordinance authorises punishments in the form of imprisonment or fine because those are the sanctions which civilised nations accept as permissible for the class of offences with which native courts deal. Every effort should be made to make it clear to Chiefs and Elders that those sanctions are in substitution for the barbarous sanctions of their own law, such as mutilation, sale into slavery, ordeal by poison, and so

on, the use of which no European Government can permit. In some courts there seems to be an impression that the power to make use of those sanctions implies an obligation to do so, with the result that imprisonment or fine is ordered in lieu of the compensation or reparation which native law would have required; it should be explained that this is not the case and that fine or imprisonment should in general only be ordered where, but for the British Government, a more severe sanction of which we do not permit the use would have been imposed. In addition to the power to fine or imprison, section 15 of the Ordinance gives power to the Native Courts to inflict, for breaches of native law and custom, any punishment authorised by that law and custom provided that such punishment is not repugnant to natural justice and humanity.

Corporal punishment.

26. Corporal punishment is one of the punishments in accordance with native law and custom which are legalised by section 15 of the Ordinance, but it is subject to the restrictions placed upon its use by the Corporal Punishment Regulations enacted by the Governor under section 41, which appear in Appendix III. It is imperative that Administrative Officers should understand that these rules must be obeyed, and above all that the rule which requires sentences of corporal punishment to be confirmed before they are carried out must be strictly enforced. Cases may occur in which courts may inflict corporal punishment without confirmation in spite of the direct orders to the contrary which they have received from the District Officer. Should this occur twice in any particular court the power to order corporal punishment should be withdrawn forthwith and the members should be made to understand that they will be liable to prosecution if that form of punishment is used by them thereafter. Though the Regulations do not require sentences of corporal punishment to be carried out in the presence of an Administrative Officer this must in practice invariably be insisted on, unless the Provincial Commissioner has given express written permission to any particular court to dispense with it. This permission should be sparingly given, and only to the most advanced and trustworthy courts, and it should be revoked at the first suggestion of abuse.

Native punishments other than corporal punishment.

27. Punishments under this provision of the law, other than corporal punishment, generally turn upon the exposure of the offender to ridicule in some form or other. They are probably rarely resorted to, and of little importance nowadays, but careful enquiries should be prosecuted before their use is permitted, and anything which is dangerous to health or inhumane should, of course, be prohibited. The most common form is probably that which in some tribes exposes the adulterer to the taunts of the villagers by requiring him to be denounced

S.M.P. 13529/110. February, 1930.

Amendment to Native Administration Memorandum No. II, Native Courts (*Revised Edition*).

Add at the end of paragraph 27:

There is, however, one not uncommon native custom which may come under the head of punishment, and that is the seizure of the cattle or goats of an accused person, or of a person who is supposed to have committed an offence, either to secure his appearance in the Native Court or as a summary punishment ordered by a Chief or Headman. This practice is open to grave abuse and should be prohibited, but the prohibition does not, of course, extend to a properly made and legal order by a Native Court.

as such *coram populo* and to acknowledge his guilt; to punishment of this nature there is of course no objection, and most officers are probably aware that with natives fear of the ridicule of their fellows is an exceedingly strong deterrent.

Fees and fines not to be too high.

28. The payment of fees and fines in money is an innovation in native custom and the courts, having little experience to guide them, are apt to err generally in the direction of excessive severity. As regards both it should be impressed upon all courts that they must keep in mind the circumstances of the people and must not be misled by comparisons with Europeans.

Court fees.

29. Fees in general should be as simple and as small as possible. The scale of fees is laid down in the Native Courts (Fees and Fines) (No. 2) Rules, 1929, printed after the Ordinance in the Appendix hereto, but in applying the scale every effort at simplicity should be made. Thus as a general rule in the absence of specific instructions to the contrary from the Provincial Commissioner the term "matrimonial cases" should be construed to cover all litigation arising directly out of a native marriage and no attempt should be made to levy fees calculated on the amount of the dower or bride price, for that amount when assessed is a consequence of the decision and not its subject matter. Again for the purpose of calculating fees it is desirable to fix from time to time a reasonable, and generally a low, value for livestock, the value of which in native life in relation to money must not be confused with the occasionally fantastic and always high prices paid for slaughter cattle at auctions by Somali dealers. The Courts must not be regarded as revenue earning concerns and any tendency so to regard them must be firmly checked, and the power to remit fees wholly or in part (paragraph 3 of the Rules) should be exercised freely wherever it is considered by Provincial Commisioners that the scale is beyond the capacity of litigants and may cause hardship.

The tendency to excessive fining to be checked.

30. Fines again should be carefully watched and the prevalent tendency to fine too heavily should be checked, especially for minor offences, contempts of court or of the Native Authority and so on. Cases have been observed in which indigent up-country natives have been fined 10/- for failing to appear to a summons, for example, a fine which would be equivalent to about £20 for an European in Dar es Salaam guilty of the same offence. Fines for contempt of the court or of the native authority, particularly for "abusing the court (or Chief)" should be regarded with extreme suspicion, for the "contempt" may be merely the expression of dissatisfaction with the judgment or of a desire to appeal to the superior Native Court or to the District Officer.

Fines for improper behaviour in court.

31. In some courts it is not uncommon for fines to be imposed for what one may describe as "unseemly conduct", for example for expectorating in court (which in the case of

many of the older natives at any rate must be an almost necessary concomitant of the processes of thought). A close watch must be kept on this sort of thing for it is more often due to a tyrannical and overbearing self-esteem on the part of the Chief or to unintelligent aping of the subordinate courts than to any objection to the acts for which the fines are imposed.

Fines or imprisonment ordered when compensation is appropriate.

32. It is a generally prevalent fault for courts to fine or imprison where the proper course should have been to award compensation to the injured party; it is true that there are some acts for which compensation used to be regarded as adequate redress (for example even homicide in most tribes) which we now insist upon punishing severely, but in the general run of cases where one native has been wronged by another the people are quite unable to understand that justice has been done by the imposition of a fine. In the Subordinate courts they no doubt account for it partly by the unintelligible habits of the Europeans; in the native courts there is little doubt that they generally imagine that the Chief has simply appropriated to himself money which ought to have gone to the injured party. The result is thus merely to create a sense of injustice which, should it grow, must in time estrange the people from the native courts, and destroy the influence and control of their own judicial system, a system which, it must never be forgotton, is the only practicable means of ensuring immunity from wrong to person and property (other than the most serious forms of crimes) for the millions of people scattered over this vast Territory.

Intervention in domestic quarrels and petty disputes to be discouraged.

33. There is apparent in some places a tendency for the native courts to intervene in the ordinary domestic disputes of the people, or in trival matters which would normally be settled, by arbitration as it were, by the families concerned or the village elders. This is generally the outcome of imperfectly understood warnings against the practice of hearing cases in private, at the Chief's house, or at any rate not in a properly constituted court. It is also no doubt due in many cases to the tendency of all natives towards litigation over trivialities. This tendency should however be checked, and the courts should normally be directed to refer matters of this sort to the heads of the families concerned or to the village elders. Access to the courts should not of course be refused to anyone but on the other hand every effort should be made to discourage the ventilation of petty grievances, especially as between man and wife, by formal proceedings before the native court.

Chiefs, etc., must not take part in proceedings to which they are parties.

34. Chiefs and other members of the courts must not take part in proceedings to which they are themselves parties and any case in which this has occurred must be quashed as a matter of course. All cases in which a Chief or Headman is himself

a party must be transferred to the Subordinate Court as a general rule; but if the District Officer considers that the ends of justice will be best served by a hearing before a native court he may permit this, if there is a court of competent jurisdiction which does not include, and is not under the influence of, the Chief or Headman in question; but in such cases an Administrative Officer must be present during the hearing.

European and Asiatic officials not to have recourse direct to the Native Courts.

35. In no circumstances may any European or Asiatic member of the public service have recourse direct to the native courts, whether the matter complained of is in connection with his functions as such, or one in which he is concerned as a private individual. This does not of course refer to Administrative Officers in their official relations with the courts as the supervisory authority. But of all officers, Administrative Officers must be the most scrupulously careful that their personal affairs are never the cause of proceedings before a native court. When an officer (other than an Administrative Officer) has occasion to make a complaint with a view to proceedings being taken before a native court, he should report the facts to the District Officer who will, if he sees fit, either refer the case to a native court of competent jurisdiction or direct that complaint be made to the police or to a subordinate court. Any infringement of this direction must be made the subject of a special report to the Provincial Commissioner who will transmit it with his comments to the Chief Secretary unless on investigation he is satisfied that the matter is of minor importance and can be adequately dealt with on the spot.

African Government servants are subject to the Native Courts.

36. African Government servants in their personal affairs are of course subject to the jurisdiction of the Native Courts of the area in which they reside. In the exercise of their official duties they should not be permitted to appear as prosecutors, but should report any matter, which they consider ought to be taken up, to the Native Authority, who will alone decide what action to take in conformity with the instructions he may have received from the District Officer. Such action may not of course include prosecutions for offences against legislation which is not within the jurisdiction of the courts; for example breaches of ordinances, which they have not been expressly empowered by the Governor to try.

Administrative Officers not to order punishments as if they were sentences of the Native Courts.

37. Administrative Officers are strictly forbidden to order the punishment of a native and cause it to be recorded as if the case had been tried in a native court and the punishment ordered were the sentence. The Governor will take a serious view of any infringement of this direction; Provincial Commissioners must immediately report to the Chief Secretary any case of this nature which may come to their notice.

Duties of District Officer: Supervision and appeals.

38. The general supervision of all native courts in his District is the primary duty of the District Officer. Section 34 (1) and (2) of the Ordinance provide that an aggrieved person may appeal to the District Officer, which includes (under the Interpretation and General Clauses Ordinance) Assistant District Officers and Cadets, and officers should take care to ensure that the people know that the right of appeal is open to them, and are able to exercise it. A practice in force in some Districts, which has much to commend it, is for an officer to attend as often as possible at the conclusion of the proceedings of the courts and to ask the people present if there is anyone who desires to appeal. District Officers must see that such functions as may be entrusted to their subordinates in relation to the native courts are carried out properly and in accordance with this memorandum. No Cadet may revise cases or hear appeals without the express consent of the Provincial Commissioner. Only in exceptional circumstances should a Cadet be permitted to confirm sentences of corporal punishment.

The first function of District Officers is to prevent illegality and injustice.

39. First and foremost the function of Administrative Officers is to prevent illegality (other than mere minor technicalities) and injustice, as has been said above in paragraph 24. There is no consideration of such vital importance to the native courts and to the proper development of this all important side of native administration which can out-weigh this. A court in which injustice is done is a travesty and a danger to the whole system. It should not be necessary to attempt precisely to define injustice for the benefit of British officers and the Governor is content to leave this to their discretion, confident that they will honourably give effect to his wishes, and in this connection paragraph 24 should be carefully studied.

Inspection of records.

40. Administrative Officers must see that all courts records are regularly scrutinised and that such checks upon the accuracy of the records as are possible are introduced. They are required to render to the Provincial Commissioner quarterly returns of the inspections of the Courts, and of the cases tried in the forms set out in Appendices XIV and XV. These returns are to be regarded as the report required by section 23 of the Ordinance but not as making personal supervision and inspection unnecessary.

Communication between Administrative Officers and courts to be by word of mouth.

41. As far as possible communications between Administrative Officers and the Courts should be by word of mouth, and not by written instructions which are open to misconstruction, and there is no better occasion for this than the periodical sittings of the courts. This may not always be possible, and Chiefs and Elders may on occasion have to be summoned to the District Office. This should be avoided,

particularly where distances are great, for it is apt to become irksome and to cause the members of the courts to regard their functions with dislike. When the sittings of the courts are regulated by direction under section 7 of the Ordinance it is advisable to arrange so that as few courts as possible sit on the same day, so that District Officers may be able to visit them in session.

Translation into the vernacular of Ordinances, etc., not to be given to the courts.

42. Written communications to the Courts may not in any case include translations in Swahili of any Ordinance, or similar enactment of the Government, without prior reference to the Provincial Commissioner or, if standing instructions so require, to the Chief Secretary. There have been cases where serious irregularities have resulted from the distribution to the courts of quite unintelligible so-called translations, of the Native Authority Ordinance for example. On the other hand the more frequently legislation and instructions affecting the courts, or natives generally, are explained publicly by word of mouth at the courts the better it is for everyone concerned.

Entries to be properly made in the records by Administrative Officers.

43. In any entries which they have to make in Native Courts records Administrative Officers should be particular to do so in a formal and precise manner; such entries should be in ink, and dated and signed. Scribbling in pencil or the use of terms incompatible with the proper dignity of any court of justice, however primitive, are forbidden.

Judicial and accounting supervision may be kept separate.

44. There is no need to combine the supervision of the judicial functions of the courts with the control of their accounts. The latter should also be carefully done and in particular the receipts should always be compared with the corresponding entries in the register, but this may be left to a junior officer with such occasional supervision as he may require.

Appeals from Native Courts to Adminstrative Officers.

45. As far as possible appeals from Native Courts to Administrative Officers should be heard publicly in the Court House of the Court from which the appeal is made and not at District Headquarters, for it is of great importance that the activities of the British officers in this respect should be within the personal knowledge of the natives concerned and not merely known to them by report, which more often than not will be erroneous or distorted. Great care and patience should be exercised in hearing such appeals, and in the general supervision to which Native Courts are subjected, and where native law or custom, and not a mere matter of fact, are in question, it is always desirable to cause that law or custom to be stated publicly at the hearing by one or more of the elders whose business it is to know them and whose regard for his own reputation will effectively prevent him from deliberately misleading the British officer, though he would often not hesitate to do so in the privacy of an office.

Revision and appeal records to be kept by Administrative Officers.

46. In the exercise of revisional and appellate jurisdiction under the Native Courts order Administrative Officers must observe the care and formality required of them by the High Court in their capacity as magistrates of the Subordinate Courts, bearing in mind that their actions in this respect should be a model for the native courts of thoroughness, accuracy and justice. The records which they keep need not *in form* exactly follow those required of them by the High Court but in manner and substance they must come up to the same high standards. Such records must always include:—

(i) The serial number and date of the case.
(ii) The court in which it originated, and the number and date there.
(iii) The names of the parties (if any) who appeared.
(iv) The matter in dispute and the judgment of the lower court or courts.
(v) The names of the witnesses (if any) who were examined by the Administrative Officer and a brief note of any evidence of particular importance.
(vi) The decision or judgment. This should always set out succinctly the reasons upon which it is based and any points which it may be important to have on record in the event of a further appeal.

The proceedings should always be signed and dated on conclusion.

Appeals to the Provincial Commissioner.

47. Upon notice of appeal to the Provincial Commissioner being given the appellant should be informed at once that his appeal will be sent forward, and a copy of the record, with such further report as may in the circumstances appear necessary should then be transmitted to the Provincial Commissioner. In no circumstances may prohibitive fees be fixed for the purpose of discourging appeals in any particular type of case.

Differences in status and capacity of the courts to be borne in mind.

48. In exercising appellate and revisionary jurisdiction and general supervision all officers must bear in mind the great difference in status and capacity between the courts. Thus the court of the Council of Chiefs in Bukoba, for example, is an entirely different body to the primitive court of a group of petty clan heads and intervention must be regulated accordingly, though no court should for political reasons be permitted to act illegally or unjustly.

Political questions are not triable in Native Courts.

49. It is convenient to refer here to certain matters about which there is some confusion. It frequently happens that a political decision has to be taken by the Government as for instance between rival claimants for the position of Chief or Clan head, or as to the capacity of the member of a Council of Chiefs or Headmen to continue in his office. These cases must be carefully distinguished from acts which may render such persons liable to prosecution and which if there is a native court of competent jurisdiction may properly be referred

to it for trial subject to the limitations which the Governor has imposed upon the prosecution of Native Authorities. But where the decision to be taken is of a political nature no native court has any jurisdiction to try the issue. The native courts or councils, and any other means of ascertaining the wishes of the people or their leaders, should be consulted, and their assistance sought to enable the District Officer, the Provincial Commissioner or the Governor, as the case may be, to come to a decision, and that decision may, and no doubt often will, conform to the advice tendered by the Native Court or Council, but it is an act—a political act—of the Government. It is a complete misapprehension to refer such an issue to the Native Courts for trial as a judicial proceeding.

Provincial Commissioner responsible to the Governor for the Native Courts in his Province.

50. The Provincial Commissioner is directly responsible to the Governor for the proper organisation and conduct of the system of native courts in his Province, and he must keep himself in close touch with it. Every Provincial Commissioner should periodically make as close a scrutiny of the Native Court records as is made by the Secretary for Native Affairs when he visits a Province on the Governor's behalf and his annual report should contain a section stating the results of those inspections.

Originals of warrants and orders to be carefully preserved.

51. The originals of all warrants constituting native courts and of all orders made under the law by Provincial Commissioners with the approval of the Governor should be securely bound and retained at the Provincial Commissioner's office, copies being sent to the Secretariat and to the District Officers but not to the courts themselves, to which a suitable paraphrase in the vernacular should be issued. It is of the utmost importance that the originals of warrants and orders should be carefully filed and that any amendments or alterations should be written on them as they are made, and should be dated and signed by the Provincial Commissioner, and the file should also contain copies of the *Gazette* Notices of any orders or rules made by the Governor under the Ordinance so that it may be a complete record of the constitution and jurisdiction of the Courts. There is now no *Gazette* Notice published establishing the native courts and the only legal and official authority for their individual existence and for such additional jurisdiction as may be conferred by order, is the original of the instrument issued under his hand by the Provincial Commissioner with the approval of the Governor. No correspondence of any kind should be included with the originals of such instruments, but reference to correspondence where necessary may be noted on them.

Inspection reports and returns.

52. Provincial Commissioners will receive quarterly inspection reports, and returns of cases tried, from the District Officers. The former need not be transmitted to the

Secretariat nor summarised for it, unless they disclose any abnormality which the Provincial Commissioner considers that he should bring to the Governor's notice. The returns of cases tried should be collated in the Provincial Commissioner's office and one return for the whole Province should be compiled on the proper form and transmitted without undue delay to the Secretariat.

Records to be kept by Provincial Commissioners.

53. Provincial Commissioners in the exercise of their revisional or appellate jurisdiction should keep records in the same form as prescribed above for District Officers with the addition, of course, of particulars of the proceedings before the District Officer. They should exercise their appellate jurisdiction as far as possible in the District from which the appeal emanated and if circumstances permit actually at the native court concerned. This may not always be possible but should be aimed at, in order to emphasise and make known the *personal* intervention of the Provincial Commissioner. Personal touch with natives is of far greater value than the intervention of a remote and imperfectly comprehended authority. These considerations apply equally to revision of cases, but in the nature of things a Provincial Commissioner will be obliged to some extent to exercise his authority in this respect from his headquarters.

Special reports to be called for where necessary.

54. Whenever the returns of cases tried suggest to a Provincial Commissioner the existence of any matter, or the occurrence of a particular case, requiring further enquiry he should call for a report from the District Officer and should, on its receipt, take such action as he may deem to be necessary. In exceptional cases, or when for any reason a Provincial Commissioner considers it advisable to do so, he should address the Chief Secretary.

Procedure on appeal to the Governor.

55. If a Provincial Commissioner is notified of an appeal to the Governor he should forthwith inform the appellant that the appeal will be sent forward, and should then transmit to the Chief Secretary copies of the whole of the proceedings, from the Court of first instance to the termination of the proceedings before himself. All records in the vernacular should be accompanied by a translation into English, but certified copies of the original should also be sent.

Conclusion.

56. The Native Court system is now well established throughout the Territory and is disposing annually of an immense mass of business in a creditable manner. It is, nevertheless, exposed to many risks and dangers and needs in all its branches the closest supervision and control, which should be exercised with sympathy and discretion but without ever losing sight of the paramount importance of securing within the forms and scope of the system that even-handed justice

should be done to all who have recourse to the courts. It is a difficult and a delicate task to guide a primitive judicial system through the pitfalls of its first contact with western civilisation, and through the perils to which it is exposed by the extremes of ignorance and sophistication which are generally to be found within every community of Africans at the present day: but it is a highly honourable task, and one which must be carried out; and with full knowledge of all that the officers of the Provincial Administration have achieved in the last four years, the Governor has every confidence that it is a task which can be safely entrusted to them and that with the assistance which this memorandum is designed to provide, they will discharge that task with credit to themselves and to the service, for the lasting benefit of the inhabitants of the Territory of all races.

GOVERNMENT HOUSE,
DAR ES SALAAM,
15th January, 1930.

DONALD CAMERON,
Governor.

APPENDIX I.

TANGANYIKA TERRITORY.

I ASSENT
DONALD CAMERON,
Governor.
10TH APRIL, 1929.

AN ORDINANCE RELATING TO NATIVE COURTS.

No. 5 of 1929.

ENACTED by the Governor of Tanganyika with the advice and consent of the Legislative Council thereof.

Short title.

1. This Ordinance may be cited as the Native Courts Ordinance, 1929.

Definition.

2. In this Ordinance—

"Native Court" means a court established under this Ordinance.

Establishment of native courts.

3.—(1) By warrant under his hand, and subject to the approval of the Governor, a Provincial Commissioner may establish within his province such native courts as he shall think fit which shall exercise over natives such jurisdiction and within such limits as may be defined by such warrant.

(2) With the approval of the Governor a Provincial Commissioner may at any time suspend, cancel or vary any warrant establishing a native court or defining the jurisdiction of any such court or the limits within which such jurisdiction may be exercised.

Constitution of courts.

4. A native court shall be constituted in accordance with the native law or custom of the area in which the court is to have jurisdiction and a native court purporting to be so constituted shall be deemed to be lawfully constituted in accordance with this Ordinance unless the contrary be shown: provided that, if he shall think fit, the Provincial Commissioner may, with the approval of the Governor, prescribe the constitution of any native court, or the order of precedence among the members thereof, or powers and duties of any persons acting as assessors to any such court.

Suspension and dismissal of members.

5. A Provincial Commissioner may suspend for a period not exceeding three months, or, with the approval of the Governor, may dismiss or may suspend for a period exceeding three months, any member of a native court who shall appear to have abused his power, or to be unworthy or incapable of

exercising the same justly, or for other sufficient reason. On such dismissal or for the period of his suspension the member shall be disqualified from exercising any powers or jurisdiction as a member of the court unless and until he is expressly reinstated by the Provincial Commissioner.

Operation of warrants, etc., issued by a Provincial Commissioner subject to approval of Governor.

6. All warrants, appointments and orders issued or made by a Provincial Commissioner under this Ordinance which are subject to the approval of the Governor shall be operative and of effect from the date thereof unless and until disallowed by the Governor.

Sessions.

7. A native court shall hold sessions at such times and places as may be necessary for the convenient and speedy despatch of the business of the court: Provided that the Provincial Commissioner may direct sessions to be held at such times and places as he shall think fit.

Jurisdiction of native courts.

8. Every native court shall have full jurisdiction, to the extent set forth in its warrant and subject to the provisions of this Ordinance, over causes and matters in which all the parties are natives resident or being within the area of the jurisdiction of the court.

Governor may exclude persons from jurisdiction of native courts.

9. The Governor may direct that any native or class of natives shall not be subject to the jurisdiction of native courts, except with their consent or the consent of the Provincial Commissioner.

Criminal jurisdiction.

10. The criminal jurisdiction of a native court shall extend, subject to the provisions of this Ordinance, to the hearing, trial and determination of all criminal charges and matters in which any native is accused of having wholly or in part within the jurisdiction of the court, committed or been accessory to the committing of an offence.

Civil jurisdiction.

11. The civil jurisdiction of a native court shall extend, subject to the provisions of this Ordinance, to the hearing, trial and determination of all civil suits and matters in which the defendant is ordinarily resident within the area of the jurisdiction of the court or in which the cause of action shall have arisen within the said area, provided that civil proceedings relating to immoveable property shall be taken in the native court within the area of whose jurisdiction the property is situated.

Cases excluded from the ordinary jurisdiction of a court.

12. Subject to any express provision conferring jurisdiction, no native court shall have jurisdiction to try—

(a) cases in which a person is charged with an offence in consequence of which death is alleged to have occurred or which is punishable under any law with death or imprisonment for life;

(b) cases in connection with marriage other than a marriage contracted under or in accordance with Mohammedan or native law or custom, except where both parties are of the same religion and the claim is one for dowry only;
(c) cognizable offences committed in any place which, under any law in force in the Territory, is declared to be a Township.

Law to be administered.

13. Subject to the provisions of this Ordinance a native court shall administer—
(a) the native law and custom prevailing in the area of the jurisdiction of the court, so far as it is not repugnant to justice or morality or inconsistent with the provisions of any order of the King in Council or with any other law in force in the Territory;
(b) the provisions of all rules or orders made by a Provincial Commissioner, District Officer, or native authority under the Native Authority Ordinance, 1926, and in force in the area of the jurisdiction of the court;
(c) the provisions of any Ordinance which the court is by or under such Ordinance authorised to administer; and
(d) the provisions of any law which the court may be authorised to administer by an order of the Governor made under section 14.

Governor may empower a native court to enforce specified laws.

14. The Governor may by order confer upon all or any native courts jurisdiction to enforce all or any of the provisions of any law specified in such order subject to such restrictions and limitations, if any, as the Governor may specify.

Punishments.

15. For offences against native law or custom a native court may, subject to the provisions of this Ordinance, impose a fine or may order imprisonment of either description, or both a fine and imprisonment, or may inflict any punishment authorised by native law or custom, provided that such punishment is not repugnant to natural justice and humanity, and the fine or other punishment shall in no case be excessive but shall always be proportioned to the nature and circumstances of the offence.

Places of imprisonment.

16. Every person sentenced by a native court to imprisonment or taken in execution of the process of such court shall be detained in a place authorised by a Provincial Commissioner as a native prison: provided that where there is no such authorised native prison in which such person can be detained he may be detained in a prison established under any law of the Territory.

Recovery of fines.

17. A native court may order that any fine which it shall impose shall be paid at such time or times and by such instalments and in kind or otherwise as it shall think just, and in default of the payment of any fine or of any instalment of the

same when due, the court may order that the amount of the fine or of the instalment, as the case may be, shall be levied by the sale of any property belonging to the offender and situate within the area of the jurisdiction of the court.

Compensation to aggrieved persons.

18. A native court may direct any fine, or such part thereof as it shall deem fit, to be paid to the person injured or aggrieved by the act or omission in respect of which such fine has been imposed, on condition that such person, if he shall accept the same, shall not have or maintain any suit for the recovery of damage for the loss or injury sustained by him by reason of such act or omission.

Contempt of court.

19. Any native subject to the jurisdiction of a native court who shall omit to produce or deliver up a document on the lawful order of such court, or who shall refuse to answer any question lawfully asked by the court, or to sign any statement lawfully required by the court, or who intentionally insults the court or any member thereof, or who intentionally interrupts the proceedings thereof at any stage, shall be guilty of a contempt of court and shall be liable to a fine not exceeding two hundred shillings, and in default of payment to imprisonment of either description not exceeding fourteen days.

Power to summon witnesses.

20.—(1) Every native court shall have power to summon before the court any native within the jurisdiction of the court for the purpose of giving evidence.

(2) Any native who without reasonable excuse shall fail to obey any summons lawfully issued under this section may be arrested and brought before the court and shall be liable to a fine not exceeding one hundred shillings or in default of payment to imprisonment of either description for a period not exceeding one month.

Governor may make provision for the summoning of witnesses or parties outside the area of the jurisdiction of a native court.

21. The Governor may by order confer upon native courts such powers as he may think necessary to secure the appearance before any such court of any native outside the area of the jurisdiction of such court when the appearance of any such native shall be required as a defendant in any proceeding within the jurisdiction of such court or as a witness in any such proceeding.

Practice and procedure.

22. Subject to such rules as may be made under section 41, the practice and procedure of native courts shall be regulated in accordance with native law and custom.

Reports of cases to be submitted to the Provincial Commissioner or District Officer.

23. At such times and in such form as the Governor shall direct, every native court shall submit to the Provincial Commissioner or to the officer in charge of a District in writing or, if so directed, orally, a report of all cases tried in such court.

Parties to appear in person.

24. No advocate or legal practitioner may appear or act for any party before a native court; but a native court may permit the husband, or wife, or guardian, or any servant, or the master, if a native, or any inmate of the household of any plaintiff or defendant, who shall give satisfactory proof that he or she has authority in that behalf, to appear and to act for such plaintiff or defendant.

Provincial Commissioners and District Officers may sit as advisers.

25. A Provincial Commissioner may sit as adviser in any native court in his province and, subject to the directions of the Provincial Commissioner, a District Officer shall have the like authority in respect of any native court in his district.

Adjudication without authority.

26. Any person who shall exercise or attempt to exercise judicial powers within the area of the jurisdiction of a duly constituted native court, except in accordance with the provisions of any Order of His Majesty in Council or of any Ordinance or who shall sit as a member of such court without due authority, shall be liable, on conviction before the High Court or before a Subordinate Court of the First Class, to imprisonment of either description for a period not exceeding twelve months or to a fine not exceeding two thousand shillings, or to both such fine and imprisonment.

Members of native courts taking rewards.

27. Whoever, being or expecting to be a member of a native court, accepts or obtains or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification other than legal remuneration as a motive or reward for doing or forbearing to do any act as a member of such court, or for showing or forbearing to show, as a member of such court, favour or disfavour to any person shall be liable to imprisonment of either description for a period not exceeding two years or to a fine not exceeding four thousand shillings, or to both such imprisonment and fine.

Taking reward for influencing courts.

28. Whoever accepts or obtains, or agrees to accept, or attempts to obtain from any person for himself or for any other person, any gratification or reward whatever, whether in money or otherwise, for inducing by corrupt or illegal means, or by personal influence any native court, or any member thereof, to do or forbear to do any act which such court or member is authorised to do in the exercise of lawful

jurisdiction or to show favour or disfavour to any person, shall be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand shillings, or to both such imprisonment and fine.

Penalty for false evidence.

29. Whoever in any proceeding before a native court gives evidence, whether upon oath or otherwise, which he knows to be false, or believes to be false, or does not believe to be true, shall be guilty of an offence and shall be liable to imprisonment of either description for a period not exceeding two years or to a fine not exceeding one thousand shillings or to both such imprisonment and fine.

Removal on motion of defendant.

30. The defendant in any case, civil or criminal, commenced or brought before any native court, may apply to the Provincial Commissioner for the removal of the proceedings, and the Provincial Commissioner may, for reasons which he shall record in writing, stop the hearing or further hearing of the case before such native court on such terms as he may consider just, and may direct that the case be tried by any Subordinate Court of competent jurisdiction.

Proceedings on transfer from native Court to Subordinate Court.

31. When a case is transferred from a native court to a Subordinate Court, whether for trial or re-trial, by an order under section 30 or section 32 (c) or section 37 (b), the native court shall report the proceedings to the Subordinate Court and thereupon the Subordinate Court shall proceed to the trial or re-trial of the case as though, in a criminal proceeding, a complaint of facts constituting the offence had been made to the court and, in a civil proceeding, as though a plaint therein had been filed in the court.

Revisionary powers of Provincial Commissioners and District Officers.

32. Every Provincial Commissioner and District Officer shall at all times have access to native courts in his Province or District and to the records of such courts, and on the application of any person concerned or of his own motion, may—

(a) revise any of the proceedings of a native court, whether civil or criminal, and may make such order or pass such sentence therein as the native court could itself have made or passed, provided that no sentence of fine or imprisonment or other sentence in any criminal proceeding shall be increased without first giving the accused an opportunity to be heard and provided further that if any such sentence shall be increased upon revision by a District Officer, there shall be an appeal from the order of the District Officer to the Provincial Commissioner and from the Provincial Commissioner to the Governor, and that if any such sentence shall be increased upon revision by a Provincial Commissioner there shall be an appeal from the Provincial Commissioner to the Governor;

(b) order any case to be re-tried either before the same native court or before any other native court of competent jurisdiction;

(c) transfer any cause or matter either before trial or at any stage of the proceedings, whether before or after sentence passed or judgment given to any Subordinate Court of the First or Second Class.

Appointment of courts of appeal.

33.—(1) A Provincial Commissioner may, with the approval of the Governor, by order under his hand, appoint the court of a single native judge or the native court presided over by a head chief or a court composed of not fewer than three of the chiefs in a District, to be a court of appeal from all or any of the native courts in the Province in respect of all or any of the cases arising therein.

(2) If there be no native court competent to hear an appeal under the preceding sub-section, or if in any particular case, or class of cases, the Provincial Commissioner shall so direct, an appeal shall lie from the native court of first instance to the District Officer.

Appeals.

34.—(1) Any person aggrieved by any order or decision of a native court of first instance may within thirty days from the date of such order or decision, appeal therefrom to the native court of appeal or, if there be no such native court of appeal, or if the Provincial Commissioner shall so direct under sub-section (2) of section 33, to the District Officer.

(2) Any person aggrieved by any order or decision of a native court of appeal may within thirty days from the date of such order or decision appeal therefrom to the District Officer.

(3) Any person aggrieved by any order or decision of a District Officer, whether made or given upon appeal from a native court of first instance or upon appeal from a native court of appeal, may within thirty days from the date of such order or decision appeal therefrom to the Provincial Commissioner.

(4) Any person aggrieved by any order or decision of the Provincial Commissioner made or given upon appeal from a District Officer may within thirty days from the date of such order or decision appeal therefrom to the Governor.

Appeals out of time.

35. Leave to appeal out of time to any court or authority prescribed by the preceding section may be given by such court or authority upon such terms as to such court or authority shall seem just.

Appeals in frivolous or trivial cases.

36. In order to prevent appeals in frivolous or trivial cases the Governor may by rule prescribe that an appeal shall not lie in any specified class of case, whether civil or criminal, either at all or beyond any specified authority.

37. A native court of appeal, a District Officer, a Provincial Commissioner or the Governor, in the exercise of appellate jurisdiction in any cause or matter under this Ordinance may require the aid of such persons as assessors as the court or other authority shall think fit and may— Power on appeal.

(a) make any such order or pass any such sentence as the court of first instance could have made or passed in such cause or matter;

(b) order any such cause or matter to be re-heard before the court of first instance or before any other native court, or before any Subordinate Court of competent jurisdiction.

38. A native court shall carry into execution any decrees or orders of the High Court or of any Subordinate Court or of any other native court directed to the court, and shall execute all warrants, and serve all process issued by any such courts as aforesaid and directed to the court for execution or service and shall generally give such assistance to any of the aforesaid courts as may be required. Execution of orders of High Court, Subordinate Courts or other native courts.

39. No person shall be liable to be sued in any court for any act done or ordered to be done by him in the exercise of jurisdiction conferred by the Ordinance, whether or not within the limits of his jurisdiction: Provided that at the time of such act or order he believed in good faith that he had jurisdiction to do such act or to make such order; and no officer of any native court or other person bound to execute lawful warrants or orders issued or made in the exercise of jurisdiction conferred by this Ordinance shall be liable to be sued in any court for the execution of any warrant or order which he would be bound to execute, if the person issuing the same had been acting in the exercise of lawful authority. Indemnity of officers acting judicially, for official acts done in good faith, and of officers executing warrants and orders.

40.—(1) The Governor may declare that all or any native courts established under the Courts Ordinance, 1920, in any specified district or area shall be deemed to be native courts established under this Ordinance and thereupon the jurisdiction conferred upon such courts under the Courts Ordinance, 1920, shall be deemed to have been conferred upon such courts under this Ordinance and shall be exercised in all respects and may be determined or varied in accordance with this Ordinance and nothing in the Courts Ordinance, 1920, shall apply to any such courts. Existing Native Courts Ordinance.

(2) Save as provided by this section nothing in this Ordinance shall apply to any court established under the Courts Ordinance, 1920.

Power to make provision for certian matters by rule.

41. The Governor may by rule make provisions for the following matters—

(1) the fees to be charged in native courts;

(2) the disposal and application of fines and fees received by native courts;

(3) the practice and procedure of native courts;

(4) the establishment and government of native prisons; and

(5) generally for the carrying into effect the provisions of this Ordinance.

APPENDIX II.

The Native Courts Ordinance, 1929 (No. 5 of 1929).

THE NATIVE COURTS (FEES AND FINES) (No. 2) RULES, 1929.

In exercise of the powers conferred upon him by the Native Courts Ordinance, 1929, the Governor has been pleased to make the following Rules—

1. These Rules may be cited as the Native Courts (Fees and Fines) (No. 2) Rules, 1929.

2. The fees specified in the Schedule hereto shall be leviable in Native Courts.

3. The fee leviable on execution shall not be payable by the plaintiff but by the defendant only; all other fees shall be payable by the plaintiff but may be remitted in whole or in part for reasons of poverty where the Court thinks fit.

4. For the purpose of calculating the value of the subject matter in a civil suit or matter the value of cattle shall be such value as may be fixed by the District Officer of the district in which a Court is situated.

5. All fees and fines shall be paid into the Treasury of the Native Authority of the area in which the Native Court, in which the proceedings were begun, is situated.

6. The Native Courts (Fees and Fines) Rules, 1929, are hereby cancelled.

SCHEDULE.

Fees leviable in Native Courts.

1. In criminal cases	No fee
2. (a) In civil suits or matters where the subject matter is capable of being estimated at a money value	5% of the amount involved with a minimum fee of one shilling.
(b) In other civil suits or matters (*e.g.* native matrimonial cases)	Two shillings.
(c) On execution where execution is necessary	5% of the amount decreed with a minimum fee of one shilling.

3. On appeal in civil suits and matters from a Native Court to a Superior Native Court or to the District Officer	Such fee, if any, as the Court or Officer to whom the appeal is made shall order not exceeding twice the amount of the fee leviable in the lower Court.
4. On appeal in civil suits and matters from the District Officer to the Provincial Commissioner	Twenty shillings or such less amount as the Provincial Commissioner shall for reasons of poverty or otherwise order.
5. On appeal in civil suits and matters from the Provincial Commissioner to the Governor	Twenty shillings or such less sum as the Governor shall for reasons of poverty or otherwise order.

APPENDIX III.

The Native Courts Ordinance, 1929 (No. 5 of 1929).

The Native Courts (Corporal Punishment) Regulations, 1929.

1. By virtue of the powers conferred upon him by section 41 of the Native Courts Ordinance, 1929, the Governor has been pleased to make the following regulations:—

Interpretation.

2. In these regulations, unless the context otherwise requires—

"adult" means a person of the age of sixteen years and over;

"juvenile" means a person under the age of sixteen years.

Corporal punishment inflicted in accordance with regulations.

3. Every sentence of corporal punishment passed on any offender by any Native Court shall be inflicted in accordance with these regulations.

Limitation of power to award corporal punishment.

4.—(1) No sentence of corporal punishment shall be passed upon any of the following persons—

(a) Females.

(b) Males over the age of forty-five years.

(2) No sentence of corporal punishment shall exceed the number of strokes which the court passing the sentence is authorised to impose.

(3) No sentence of corporal punishment shall be carried out by instalments.

(4) When a person is convicted at one trial of two or more distinct offences, any two or more of which are legally punishable with corporal punishment, only one sentence of corporal punishment may be passed in respect of all the offences.

(5) No sentence of corporal punishment shall be inflicted within fourteen days of the infliction of any previous sentence.

(6) No corporal punishment shall be inflicted publicly: Provided that where the court considers it desirable, this provision shall not apply to the punishment of juveniles.

Determination of age.

5. In determining the age of an offender for the purposes of these regulations the court authorised to award corporal punishment may, in the absence of direct evidence of age, adjudge such age according to the appearance of the offender.

Where confirmation required, no sentence to be carried out unless confirmed.

6. Where in any regulation, order or warrant under the Native Courts Ordinance, 1929, it is provided that a sentence of corporal punishment, if awarded, shall be subject to confirmation, no such sentence shall be carried out unless and until it has been duly confirmed.

Number of strokes to be specified.

7. In every sentence in which corporal punishment is awarded the court shall specify the number of strokes to be inflicted.

Execution of sentence.

8. A sentence of corporal punishment shall be carried out without unnecessary delay and shall in no case be carried out after the expiration of six months from the passing of the sentence.

Detention for punishment.

9. An offender sentenced to undergo corporal punishment may be detained in a prison or some other convenient place for such time as may be necessary for carrying the sentence into effect, or for ascertaining whether the same shall be carried into effect.

Mode of infliction.

10.—(1) A sentence of corporal punishment shall be inflicted upon adults upon the buttocks with a light rattan cane which is free from knots and is not less than half an inch in diameter.

(2) A sentence of corporal punishment shall be inflicted upon juveniles upon the buttocks and with a rattan cane which is free from knots and is of a lighter type than that used for adults, but is not less than half an inch in diameter.

(3) During the infliction of a sentence of corporal punishment a piece of thin cotton cloth soaked in an antiseptic solution shall be kept spread over the buttocks of the person undergoing the punishment, who shall be so secured that he cannot, by reason of the movement of his body, cause the strokes to fall upon any other part of his body than that upon which they are to be inflicted in accordance with these regulations.

APPENDIX IV.

The Native Courts Ordinance, 1929 (No. 5 of 1929).

Service of Process Outside Jurisdiction.

In exercise of the powers conferred upon him by section 21 of the Native Courts Ordinance, 1929, the Governor has been pleased to order as follows:—

1. Every native court shall have power to summon to appear as a defendant or as a witness in any proceeding within the jurisdiction of such court, any native who is within the Province in which such court is situate notwithstanding that such native is outside the area of the jurisdiction of the native court issuing the summons.

2. Every summons issued under the authority of this Order shall be endorsed, if the court issuing the summons and the court by which it is to be served are subordinate to the same superior native court, and in any other case by a District Officer of the district in which the summons is issued.

3. Any native who without reasonable excuse shall fail to obey any summons lawfully issued under this Order may be arrested and brought before the court within whose jurisdiction he is and shall be liable to a fine not exceeding one hundred shillings or in default of payment to imprisonment of either description for a period not exceeding one month.

KITABU CHA SHAURI.

Shauri No.	Tarehe	Mshtaki au Mdai	Mshtakiwa au Mdaiwa	Shauri	Ada ama Fain	Stakabadhi No.	Hukumu

Kupokea Fedha. *DAFTARI.* *DAFTARI.* *Kulipa Fedha.*

Tarehe	Jina la mtu alipaye	Sababu ya kulipwa	Nambari ya Stakabadhi	Hesabu		Tarehe	Aliyelipwa	Alipa kwa sababu gani	Hesabu		Nambari ya Stakabadhi au ya hati ya Malipo	
				Shs.	Cts.				Shs.	Cts.		
							[A separate form No. 3a is also obtainable for use as a Cash Transcript form.]					

N.A. Form No. 4.

APPENDIX VII.

STAKABADHI.

Hazina ya..... .....

Nimepokea kwa.... .....

Shs. .... Cents .....

Ng'ombe..... Mbuzi .....

Kwa ajili ya.....

Tarehe.....19.....

....

(Stakabadhi in books of 100 in duplicate).

N.A. Form No. 2.

APPENDIX VIII.

KWITWA SHAURINI.

Anatakiwa shaurini

.....

.....

katika Baraza ya.....

Siku ya.....

Kwa Shauri la.....

.....

Asipohudhuria kwa khiari yake akamatwe.

Ada Shs.....Cts.....

Stakabadhi No.

.....
Karani wa Baraza.

REVERSE

Katika hukumu wa.. .....Shauri No.....

Imehukumiwa kama.....

Tarehe..... *Sahihi*.....
Mdaiwa amelipa hukumu

Tarehe..... *Sahihi*.....

N.A. Form No. 6A.

APPENDIX IX.

WARRANT ESTABLISHING A NATIVE COURT.

By virtue of the powers conferred upon me by section 3 (1) of the Native Courts Ordinance, 1929, and with the approval of the Governor, I.....

Provincial Commissioner, of the.....Province do hereby appoint

.....

.....

.....

to be a Native Court with jurisdiction as set out in the Schedule hereto within the following area namely:—

Given under my hand this.....day of.....19...

(Schedule on reverse)

.....

Provincial Commissioner,

.....*Province.*

To be printed on reverse.

A.

SCHEDULE.

(i) In matters of a civil nature where the subject matter of the suit is capable of being estimated at a money value, and does not exceed in value six hundred shillings.

(ii) Cases in connection with marriage subject to the limitations imposed by section 12 (b) of the Native Courts Ordinance, 1929.

(iii) Cases relating to inheritance which are not governed by the provision of the Deceased Natives Estates Ordinance, 1922: such jurisdiction shall be in addition to any jurisdiction conferred under the Ordinance.

(iv) In matters of a criminal nature, imprisonment not exceeding six months, a fine not exceeding two hundred shillings and whipping not exceeding eight strokes or for offences against native law and custom any punishment authorised by such native law and custom, provided that such punishment is not repugnant to natural justice and humanity, and further provided that in no case where fine has been ordered shall the sentence of imprisonment passed upon the offender in default of payment of fine together with the original term of imprisonment (if any) exceed a total of six months, and that every sentence of whipping shall require to be confirmed by the District Officer before it is carried out.

NOTE: If special jurisdiction is conferred on any Court (*e.g.*, in terms of 12 (c) of the Native Courts Ordinance it should be added to the jurisdiction as printed above).

N.A. Form No. 6B.

APPENDIX X.

WARRANT ESTABLISHING A NATIVE COURT.

By virtue of the powers conferred upon me by section 3 (1) of the Native Courts Ordinance, 1929, and with the approval of the Governor,

I.....

Provincial Commissioner, of the.....Province do hereby appoint

.....

.....

.....

to be a Native Court with jurisdiction as set out in the Schedule hereto within the following area namely:—

Given under my hand this.....day of.....19...

(Schedule on reverse).

.....

Provincial Commissioner,

.....*Province.*

To be printed on reverse.

B.

SCHEDULE.

(i) In matters of a civil nature, where the subject matter is capable of being estimated at a money value and does not exceed two hundred shillings.

(ii) Cases connected with marriage subject to the limitations imposed by section 12 (b) of the Native Courts Ordinance, 1929.

(iii) Cases relating to inheritance which are not governed by the provisions of the Deceased Natives Estates Ordinance, 1922: such jurisdiction shall be in addition to any jurisdiction conferred under the said Ordinance.

(iv) In matters of a criminal nature imprisonment not exceeding one month, fine not exceeding fifty shillings, and whipping not exceeding six strokes or any punishment authorised by native law and custom, provided that such punishment is not repugnant to natural justice and humanity, and further provided that in no case where fine has been ordered shall the sentence of imprisonment passed upon the offender in default of payment of fine together with the original term of imprisonment (if any) exceed a total of one month, and that every sentence of whipping shall require to be confirmed by the District Officer before it is carried out.

N.A. Form No. 6A (1).

APPENDIX XI.

TANGANYIKA TERRITORY.

BARAZA KUU YA

.....

HATI HII NI YA KUTHUBUTISHA MAMLAKA YA BARAZA KUU YA

.....

ILIYOTOLEWA KWA IDHINI YA BWANA GOVERNOR.
NA WALIO WAKUBWA WA BARAZA NI HAWA:—

Baraza kuu hii mamlaka yake ni kuamua watu wakiwa wana shauri la nyumbani ama la urithi usiokataliwa ama wakiwa wanadahiliana mali yasiozidi thamani ya shillingi sita mia. Na kama mali ikizidi thamani hii shauri likatwe Bomani. Tena kama mtu ametenda tendo baya na kustahili kuadhibiwa Baraza Kuu hii imhukumu kufungwa, ama kutozwa, ama kupigwa fimbo, hata adhabu nyingine kwa desturi au mila ya nchi ikiwa Bwana Shauri ameikubali. Lakini adhabu ya mtu lazima ipimwe kadri ya kosa lake na mwisho wake Baraza hii ni kumfunga kwa miezi sita ama kumtoza shillingi miteen, ama kumpiga fimbo nane. Kosa lihitajilo adhabu kubwa kuliko hii lazima lihukumiwe na Bwana Shauri. Walakini asipigwe mtu fimbo kabla Bwana Shauri hajatoa idhini yake.

Na mimi ninathubutisha hati hii kwa kutia mkono wangu siku ya mwezi.....mwaka 19.....

.....
Provincial Commissioner.

N.A. Form No. 6B (1).

APPENDIX XII.

TANGANYIKA TERRITORY.

BARAZA NDOGO YA

.....

HATI HII NI YA KUTHUBUTISHA MAMLAKA YA BARAZA NDOGO YA

.....

ILIYOTOLEWA KWA IDHINI YA BWANA GOVERNOR.
NA WALIO WAKUBWA WA BARAZA NI HAWA:—

Baraza Ndogo hii mamlaka yake ni kuamua watu wakiwa wana shauri la nyumbani ama la urithi usiokataliwa ama wakiwa wanadahiliana mali yasiozidi thamani ya shillingi miteen. Na kama mali ikizidi thamani hii shauri likatwe katika Baraza Kuu. Tena kama mtu ametenda tendo baya na kustahili kuadhibiwa Baraza Ndogo hii imhukumu kufungwa, ama kutozwa, ama kupigwa fimbo, hata adhabu nyingine kwa desturi au mila ya nchi ikiwa Bwana Shauri ameikubali. Lakini adhabu ya mtu lazima ipimwe kadri ya kosa lake na mwisho wake Baraza hii ni kumfunga kwa mwezi mmoja ama kumtoza shillingi hamsini, ama kumpiga fimbo sita. Kosa lihitajilo adhabu kubwa kuliko hii lazima lihukumiwe na Baraza Kuu. Walakini asipigwe mtu fimbo kabla Bwana Shauri hajatoa idhini yake.

Na mimi ninathubutisha hati hii kwa kutia mkono wangu siku ya mwezi.....mwaka 19.....

.....
Provincial Commissioner.

N.A. Form No. 7.

APPENDIX XIII.

ORDER UNDER SECTION 33 (1) OF THE NATIVE COURTS ORDINANCE, 1929.

By virtue of the powers vested in me by section 33 (1) of the Native Courts Ordinance, 1929, and with the approval of the Governor,

I.....

Provincial Commissioner of the.....Province do

hereby appoint a Native Court composed as set out in the first column of the Schedule hereto to be a Court of Appeal from the Native Courts set out in the second column of the said Schedule.

Given under my hand this.....day of.....19.....

.....

Provincial Commissioner.

SCHEDULE.

Court of Appeal.	Courts from which appeals lie to the Court of Appeal.

N.A. Form No. 9.

APPENDIX XIV.

FORM OF INSPECTION REPORT ON NATIVE COURTS BY DISTRICT OFFICER.

To the Provincial Commissioner,

.....

I have the honour to inform you that inspections of the Native Court records have been carried out during the quarter ending

.....as shown hereunder.

Native Court Books examined		Officer by whom examined	Date
at the Court	at District Office		
X, Y, Z	A, B, C	District Officer	
E, F	G, H	Assistant District Officer	

Date.....

.....
District Officer.

NOTE. :—*This form to be typed as required.*

N.A. Form No. 13.

RETURN OF CASES TRIED, ETC., BY NATIVE COURTS ESTABLISHED UNDER THE NATIVE COURTS ORDINANCE, No. 5 OF 1929.

PROVINCE :— ..... DISTRICT :— ..... Quarter ending .....

(*Not* including Native Courts in direct administration areas, etc., which remain under the Courts Ordinance, No. 6 of 1920).

1.	2.	3.	4.	5.	6. Punishments ordered						
Total No. of cases	No. of cases Civil Nature	No. of cases Criminal Nature	No. of persons convicted	No. of persons convicted but not punished	(a) Imprisonment only	(b) Fine only	(c) Whipping only	(d) Fine and imprisonment	(e) Whipping and imprisonment	(f) Fine and whipping	(g) Native Laws and Cutoms*

7. No. of persons convicted for offences against								8. Appeals				9. Revision			1.
(a) Person	(b) Property	(c) Marriage	(d) Orders Sec. 8 N.A.O. ¶	(e) Rules Sec. 15 N.A.O.	(f) Ordinances †	(g) Laws ‡	(h) Native Laws and Customs not included in previous Column§	(a) To	(b) No.	(c) Allowed	(d) Pending	(a) Sentence enhanced	(b) Sentence reduced	(c) Proceedings quashed	No. of cases transferred to Subordinate Court
								Gov. P.C. D.O. N. Appeal Court N. Court							

* Section 15, Native Courts Ordinance, 1929, Nature of punishment to be explained in foot-note.
¶ Details on reverse in accordance with section (a) Circular 20/1925.
† See Native Courts Ordinance, section 13/c.
‡ See Native Courts Ordinance, section 13/d.
§ Cases which are particularly numerous or deserving of comment for some other reason should be briefly explained in notes.

.....

Provincial Commissioner.

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